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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,294	08/22/2001	Stephen E. Silverman	76125.00101	8790
34661	7590	10/04/2004	EXAMINER	
CHARLES N. QUINN FOX, ROTHCHILD, O'BRIEN & FRANKEL, LLP 2000 MARKET STREET, 10TH FLOOR PHILADELPHIA, PA 19103			VO, HUYEN X	
			ART UNIT	PAPER NUMBER
			2655	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/935,294

**Applicant(s)**

SILVERMAN ET AL.

**Examiner**

Huyen Vo

**Art Unit**

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 2-4, 6, 12(2)-12(4), and 12(6) is/are allowed.  
6) ☒ Claim(s) 1, 5, 9-11, 12(1), 12(5), and 12(9)-12(11) is/are rejected.  
7) ☒ Claim(s) 7-8 and 12(7)-12(8) is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 22 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/12/2003.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 7-8 are objected to because of the following informalities: claims 7-8 should depend on an independent claim. The examiner interprets that claims 7-8 depend on claims 6. Appropriate correction is required.

2. Claims 12(7)-12(8) are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim 12 cannot depend from any other multiple dependent claims 7-8. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory

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double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1 and 12(1) are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5148483. Although the conflicting claims are not identical, they are not patentably distinct from each other because the term "*amplitude*" in claim 1 of U.S. Patent No. 5148483 represents a specific form of energy. Also, limitations (b-d) in claim 1 of U.S. Patent No. 5148483 discuss a specific way of dynamically monitoring the signal. Therefore, limitations (a), (b-d), and (e) in claim 1 of U.S. Patent No. 5148483 match with limitations (a), (b), and (c) in claim 1 of the application, respectively.

5. Claims 9 and 12(9) are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5148483. Although the conflicting claims are not identical, they are not patentably distinct from each other because the phrase "*difference between minimum and maximum amplitude*" in claim 1 of U.S. Patent No. 5148483 is considered the same as the "*dynamic amplitude*." Furthermore, U.S. Patent No. 5148483 fails to specifically disclose the step of comparing the difference

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between input and the model to a predetermined threshold. However, it would have been obvious to one of ordinary skill in the art at the time of invention to include the step above in order to minimize false enhance system's efficiency in evaluating near-term suicidal risk. Therefore, limitations (a), (b-d), and (e) in claim 1 of U.S. Patent No. 5148483 match with limitations (a), (b), and (c) in claim 9 of the application, respectively.

6. Claims 5 and 12(5) are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6591238. Although the conflicting claims are not identical, they are not patentably distinct from each other because the method described in claim 1 of U.S. Patent No. 6591238 is essentially the same as the method described in claim 5 of the claimed invention, excepts the step of "*averaging*" before comparing. However, it would have been obvious to one of ordinary skill in the art at the time of invention to include the step of "*averaging*" the signal before comparing in order to enhance accuracy in evaluating near-term suicidal risk.

7. Claims 10 and 12(10) are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 5976081. Although the conflicting claims are not identical, they are not patentably distinct from each other because the phrase "*amplitude exhibits substantially non-instantaneous decays*" in claim 2 of U.S. Patent No. 5976081

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indicates that the signal takes longer to decay. Hence, changes in speech occur more often than that of the model.

8. Claims 11 and 12(11) are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 5976081. Although the conflicting claims are not identical, they are not patentably distinct from each other because the phrases "*non-instantaneous decays*" and "*fundamental frequency*" in claim 2 of U.S. Patent No. 5976081 infer that the terminal decrease and in-tonal increase in energy content of the word exceeds that of the model. Also, limitations (b-d) in claim 2 of U.S. Patent No. 5976081 discuss a specific way of dynamically monitoring the signal. Therefore, limitations (a), (b-d), and (e) in claim 2 of U.S. Patent No. 5976081 match with limitations (w), (x), and (y) in claim 11 of the application, respectively.

#### ***Allowable Subject Matter***

9. Claims 7-8 are objected to but would be allowable if they are corrected.

10. Claims 2-4, 6, 12(2)-12(4), and 12(6) are allowed over prior art of record.

The following is a statement of reasons for the indication of allowable subject matter: Pertrushin (US Patent No. 6151571) discloses a method for detecting emotion in voice signals through analysis of a plurality of voice signal parameters. However, Pertrushin, fails to specifically disclose a method for detecting frequency of commencement of words, and a method for determining if the initial amplitude of said spoken word exceeds amplitude of said preceding

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and/or succeeding contiguous words by more than a pre-selected amount, to determine if the person has a relative high near-term risk of suicide.

Furthermore, it would have not been obvious to one of ordinary skill in the art at the time of invention to modify Pertrushin by incorporating a method above, as taught by the claimed invention. Therefore, claims 2-4 and 6 are allowed over prior art of record.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Vo whose telephone number is 703-305-8665. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 703-305-4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner Huyen X. Vo

July 26, 2004

  
SUSAN MCFADDEN  
PRIMARY EXAMINER